IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

CRP.No. 774 of 2007()

AGAINST THE ORDER DATED 18/07/2007 IN EP 1591/2005. IN OS.714/2004 of PRL.M.C.,IRINJALAKUDA

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REVN. PETITIONER: JUDGMENT DEBTOR/DEFENDANT:

SHAJU, S/O.THANDASSERY PRABHAKARAN,
VELOOPPADAM DESOM, VELOOPPADAM VILLAGE.

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENTS: DECREE HOLDER/PLAINTIFF:

RAJAPPAN,
S/O. EZHAVANTHARA KRISHNANKUTTY,THEKKUMMURI DESOM,
VARANTHARAPPILLY VILLAGE, MUKUNDAPURAM TALUK.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.No. 774 OF 2007

Dated this the 20th August, 2007.

O R D E R

This revision petition is preferred against the order of the Principal Munsiff, Irinjalakuda in E.P.1591/05 in O.S.714/04. The court found that the revision petitioner is having sufficient means to pay and he is neglecting to pay the amount and therefore ordered arrest. The revision petitioner is 34 year old man having a wife. The contention is that he is never in the habit of going to any work. Until he got married, his case is that he was depending upon the parents and thereafter on the wife and the mother-in-law. It is too difficult to digest such pleadings and evidence but nevertheless the burden is always on the decree holder to prove the means of the judgment debtor. The court below itself has observed that no document is produced. If the revision petitioner is attached to any employer dealing with gold certainly he should have been summoned to prove the same. Merely because a person is young and he is married one cannot jump to the conclusion unless in a case of Section 125 of the Cr.P.C that he is bound to repay the decree debt. Therefore, the order requires interference. It is set aside and the matter is remitted back to the trial court

for fresh consideration after affording equal opportunities to both parties to adduce both oral and documentary evidence in support of their respective contentions. The petitioner is directed to appear before the court on 16.9.2007 and on that day the court should give notice to the decree holder and thereafter post the matter for evidence taking into consideration the convenience of the parties. C.R.P is disposed of accordingly.

M.N.KRISHNAN
Judge

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